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5 IN THE UNITED STATES DISTRICT COURT
6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 FREDERICK GATLIN,

No. 07-03696 CW

9 Petitioner,

10 ORDER FOR
RESPONDENT TO
LODGE
PETITIONER'S
MEDICAL RECORDS
WITH THE COURT

11 v.

12 JAMES TILTON,

13 Respondent.
14 _____ /

15 On July 16, 2008, the Court issued an Order granting
16 Respondent's motion to dismiss based on untimeliness in which it
17 reviewed the evidence Petitioner submitted and determined that he
18 did not show an extraordinary circumstance meriting equitable
19 tolling. Petitioner timely appealed and, on May 6, 2010, the Ninth
20 Circuit issued an order vacating and remanding for further
21 proceedings. The Ninth Circuit ruled that the medical records
22 Petitioner submitted made a colorable showing that he suffered from
23 a serious mental illness for at least a substantial portion of the
24 five-year period at issue. However, the court noted that, because
25 Petitioner proceeded pro se, the record contains only a limited and
26 sporadic collection of his medical records so that it is difficult
27 to gain a complete understanding of his mental health over the
28 course of his incarceration. The court also noted that Respondent

1 represented at oral argument that it was in possession of the
2 entirety of Petitioner's prison medical records. Therefore, the
3 Ninth Circuit ordered that this Court, on remand, examine
4 Petitioner's medical records to determine the extent of his mental
5 capacity during the relevant five-year period, and that, if the
6 records suggest that Petitioner's mental illness affected his
7 ability to file a habeas petition during the entire relevant
8 period, an evidentiary hearing would be warranted.

9 Therefore, Respondent is ordered, within ten days from the
10 date of this Order, to lodge with the Court the entirety of
11 Petitioner's prison medical records. The Court will review the
12 records and determine if an evidentiary hearing is warranted.

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IT IS SO ORDERED.

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17 Dated: June 11, 2010

Claudia Wilken

Claudia Wilken
United States District Judge

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UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FREDERICK GATLIN,

Plaintiff,

V.

JAMES TILTON et al.

Defendant.

Case Number: CV07-03696 CW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

11 That on June 11, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies)
12 in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in
the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's
office.

Frederick Gatlin P-19908
California Medical Facility
P-141-L
P.O. Box 2000
Vacaville, CA 95696-2000

Dated: June 11, 2010

Richard W. Wieking, Clerk
By: Ronnie Hersler, Deputy Clerk